

Boycott Pickets File Petition For Transfer Of Court Jurisdiction

Charges Of Oppression And Misrepresentation
Levelled At Former Chairman Of Municipal
Council In Connection With Case

RECENT SEIZURE OF JAPANESE GOODS DURING BOYCOTT CAMPAIGN

Charges of oppressing the Chinese judiciary by political force and unprecedented "misrepresentations" are made against Brig-Gen. E. B. Macnaghten, former chairman of the S.M.C. in a motion filed by four Chinese pickets with the Second Branch of the Kiangsu High Court, for a transfer of jurisdiction in a case where they have been charged with robbery, in connection with the seizure of Japanese goods. The case was an appeal lodged with the high court by the S.M.C. against the dismissal of a prosecution against the pickets on a robbery charge. In their motion the pickets asked that the appeal should be transferred to another Court for hearing, charging the Settlement authorities with failing

to carry out their duties.

In dismissing the motion, the high court ruled that it should have been made to the Supreme Court of Nanking, or the court directly higher than the high court here where the appeal has been set down for hearing.

The ruling of the court reads: "When a motion for transfer of jurisdiction is made by the party concerned, it should be made to the competent court, according to Article 22 of the Code of Criminal Procedure. The 'Competent Court,' according to Article 21, section 1, of the code, should mean the court which is the direct superior to it. This case is now before this court as a court of second instance, and therefore, applicants should make the motion for transfer of jurisdiction to the Supreme Court. The motion made by them to this court is apparently contrary to procedure."

Motion Filed

The motion filed by the pickets reads:

"The applicants hereby move for transfer of jurisdiction in the case in which they were charged with robbery. They had scattered in different directions after the dissolution of the Society and this explains why the summons could not be served on them and why they failed to appear on the date of hearing."

"The applicants now find that the case has been set again for hearing. They intended at first to appear and answer the charge at the time specified. However, after the outbreak of hostilities at Shanghai the Japanese Navy and Army troops and 'ronins' have, by relying on their might and force, carried away and massacred thousands of innocent residents everywhere in the Settlement. Law is of no avail and rights of persons have been trampled under foot. Even the Settlement authorities have failed to carry out the duties entrusted to them by the residents and have yielded to force, without having any courage of lodging a protest or filing a suit. This being the case, the injustice done to the injured parties can never be redressed. Neither is there any way

open to them for complaint. This is really a catastrophe never experienced and a shame in modern history. Brig-Gen. Macnaghten, Chairman of the S.M.C., however, in the course of his address at the annual ratepayers' meeting, thoughtfully remarked that the recent fighting in and around Shanghai resulted from the District Court's conniving at the anti-Japanese movement. It can also be gathered from his expressions that he has attacked the judgment rendered in this case by the court of first instance. It is submitted that such a case of oppressing the judiciary by means of political force and misrepresentations is unprecedented. Although there is a cessation of hostilities at present the agreement for withdrawal of troops has not yet been signed.

Hostilities Feared

It is, therefore, feared that further hostilities might break out. The right of policing has not yet been fully recovered by the S.M.C. and the Japanese "ronins" are still at large in their atrocious acts. As ordinary persons cannot avoid being carried away and massacred by them, the applicants, who had participated in the anti-Japanese movement, will be most deeply regretted by them. In case they make their appearance in court this time, why can safely predict that the Japanese "ronins" would not stop in and carry them away? At that time the Municipal police would also say that they have no means of protection. The applicants are therefore trembling at the thought of it.

"In these circumstances the applicants find it necessary to move Art. 21 of the Code of Criminal Procedure and hereby submit this motion for transfer of jurisdiction, setting forth the grounds therefor in accordance with Articles 21 and 22 of the Code of Criminal Procedure so that the case may be tried by the Kiangsu High Court and the applicants may be safe from danger. Applicants: Kih Yoon-ting, S. Sang-ming, Yang Hai-chong, Chao Tsong-yen.

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Old Mixed Court History Reviewed

International Tribunal
Idea Termed Absurd
By China Times

Commenting upon Brig-Gen. Macnaghten's recent strictures upon the special district court in the International Settlement, the China Times declares that the right to exercise jurisdiction over Chinese subjects and non-extraterritorial foreign nationals in the foreign settlements is an inalienable attribute of China's State Sovereignty and therefore the Chinese nation is determined not only to reject any proposal for the so-called "internationalization" of those Courts but also to recover complete and unfettered control, the Kuo Min News Agency states in a summary on the editorial.

The editorial begins with a review of the history of the administration of justice in the Settlement, pointing out that neither by treaty nor in actual fact had the Chinese authorities (prior to 1911) relinquished judicial jurisdiction in the Settlement.

Revolution Of 1912

It was only by taking advantage of the disturbed conditions brought about by the Revolution of 1912 that the Foreign Consular Authorities in the Settlement "usurped" the Chinese administration of justice and appointed Chinese magistrates of their own.

By the rendition of the Mixed Court in 1926, therefore, the Chinese Government did not obtain any concession from the foreign authorities but merely recovered what had been usurped and wrongfully retained against both international law and treaty provisions.

Mixed Court Rendition

The editorial also deplores that at the time when the Mixed Court rendition agreement came up for revision, the Chinese Government should have failed to recover complete and unfettered jurisdiction over the Courts but had agreed to such important limitations upon the rights of the Courts as those providing that the judicial police attached to the Courts must be selected from nominees of the Municipal Council, that the power of prosecution must remain in the hands of the Municipal advocates, the procurators of the Courts having few or no powers; and finally, that the prisons attached to the Courts were to remain under the control of the Municipal Authorities.

Chinese Territory

After referring to the remarks made by Gen. Macnaghten in the course of his speech at the recent annual meeting of foreign rate-payers, the editorial declares, "We must impress upon Gen. Macnaghten and other foreign nationals of his mentality the fact that the International Settlement of Shanghai remains an integral part to Chinese territory and that the right of judicial jurisdiction in the Settlement is inherent in our State Sovereignty."

"Moreover, it should be emphasized that the Courts in the International Settlement must have for their object the dispensation of fair and unbiased justice (to all the litigants irrespective of nationality) and the maintenance of general order and security. The foreign residents must not deceive themselves that such Courts are established merely for the interests or must seek the satisfaction of foreign nationals and that the Courts ought to protect such interests to the prejudice of others."

International Court Idea

Concluding, the editorial points out the absurdity of the idea of establishing international courts in place of the present Chinese Courts. The defects inherent in such a system will render it absolutely impracticable.

For example, the administration of justice presupposes the existence of a uniform and definite set of laws. What law is this to be? Since foreign nationals are dissatisfied with Chinese Law, the latter would be ruled out. If the Law of any particular country (other than China) is to be administered, it is inconceivable how the nationals of other countries would be satisfied.

Moreover, how can the application of a foreign law to the overwhelming Chinese population in the Settlement be considered fair and just? If the law to be applied is to remain the Chinese law, then it is obvious that no foreigners can be more competent than the Chinese themselves to administer Chinese law. "We are at a complete loss to see how Gen. Macnaghten can invent a law which will meet with the satisfaction and approval of all the different nationalities resident in the Settlement." Moreover, "under what authorities is jurisdiction over these Courts to be placed? The Chinese Government? The British Government? or the Municipal Council?" the editorial asks. Certain other criticisms in the same editorial seem to be based upon misapprehension of Gen. Macnaghten's speech and are omitted in the above summary.

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British Chamber Joins Criticism Of Local Courts

Chairman Surveys China
Affairs At Annual
Meet Yesterday

Support to the criticism of General E. B. Macnaghten, retired Council chairman, directed at Chinese courts in Shanghai, was given when the British Chamber of Commerce met here yesterday in their annual general meeting. The meeting was held at the Shanghai Club.

While the utterances of Mr. R. Calder Marshall, chamber chairman, throw no new light on the subject his statements essentially corroborated the charges of General Macnaghten that the Special District Court was inadequate and was found wanting in the matter of handling recent anti-Japanese activities.

The full text of yesterday's speech of the chairman of the British Chamber of Commerce is printed on page 10.

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Chairman's Speech At British Chamber Of Commerce Annual

The following is the full text of the speech of Mr. R. Oslder-Murshall, chairman of the British Chamber of Commerce, at its annual meeting held yesterday:

Probably no year since the establishment of the Republic has been so full of major problems for China as the year 1931 or rather the twelve months since our last annual meeting. In addition to the economic and banditry which in themselves provided a serious problem, China has been faced with political dissensions between Nanking and Canton; floods of unprecedented extent in the Yangtze valley; the Sino-Japanese trouble in Manchuria; and in this year the Sino-Japanese conflict in Shanghai.

In the early part of 1931, it appeared that the exception of the ever present bandit and bandit menace with which the Government was trying to cope, there were no other serious problems. The country and hopes were raised that the Peoples Conference in May would lead to the subordination of personal and party interests to the country's need for a stable, effective effort, and that trade, commerce and industry in 1931 would be able to show substantial gains.

Hopes Are Dashed

These hopes were soon dashed to the ground. For in June Canton broke away from Nanking and a separate government independent of Nanking was established in the South. Nanking already fully committed in its campaign against the communists and Japanese in Manchuria, was unable to divert forces to combat the new element of disunion, and as Canton maintained a defensive attitude, an outbreak of hostilities was happily averted.

However, the possibility of civil war was ever present, adding its influence to the merchants and industrialists and preventing the development that would normally have taken place.

August the Yangtze Valley suffered from one of the worst floods in the history of China—the inundation covering an area nearly equal to the area of England—causing great loss of life and material loss being computed.

Chinese Come To Aid

To meet this overwhelming catastrophe the Chinese mobilized all their resources. Commerce already strained almost to the limit and a number of the organizations of the National Flood Relief Commission, and the work done by it, many thousands of refugees have been saved and fed and the material loss has been helped to make a new start.

In order to meet the extraordinary expenditure incurred through this calamity the National Government authorized the collection of a surplus of 10 per cent on Customs duties up to June 30, 1932, and 5 per cent from July 1 to December 31, 1932. While surplus it is estimated will be sufficient to cover a large part of the extraordinary flood relief expenditure. Though at first emergency relief was freely distributed, such as the relaxation of the flood permits, relief given in the form of labor employed in rebuilding the dykes to a height calculated to prevent a recurrence of the trouble, the Government at Nanking was faced by the even greater task of relief work by the Japanese in Manchuria.

Governmental Measures

One of the first steps taken by the Government was the appointment of Mr. Sun Fo as the first group, which established a government under a favorable attitude.

The Nanking Government has been in favor of Mr. Sun Fo and the second group, which established a government under a favorable attitude.

War Breaks Out

On August 18, 1931, the Japanese forces broke out between Manchuria and China, forcing on the Chinese a war of aggression.

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The last annual report referred to the prevalence of banditry and the Government's efforts to eradicate these evils by force, but these strong efforts have been made to crush the communists and the bandit menace and though apparently some progress had been made in this direction it cannot be too strongly emphasized that maladministration conditions are largely responsible for the prevalence of banditry and that permanent relief cannot be anticipated until the responsible leaders sink their personal and party interests and ambitions and combine to establish a government which by working for the good of the country, will command the respect and support of all classes.

Manchurian Conflict

The outstanding event of the year was of course the crisis in Manchuria. As this question is now the subject of investigations by the League of Nations Commission headed by Lord Lytton, it would be improper and undesirable to make any comment on the present occasion. It is to be hoped that as a result of the investigations now being made a satisfactory solution of the problems may be reached and that the many controversial points may be settled leaving the way open for the untrammelled development of the great area.

It was but natural that the events in Manchuria should produce reactions in other parts of China and that the people should be deeply shocked. Fortunately, the incidents showed a definite absence of discipline and disorganizing the efforts being made by the leaders of their government to resist the aggression, induced themselves into the arena with an unbridled enthusiasm which unquestionably added fuel to the fire and aggravated the situation.

The inevitable boycott became in the hands of the Anti-Japanese Boycott Association a menace to law and order, for the Anti-Japanese Boycott Association disregarded alike the law the liberty of the individual and the rights of property.

One of the effects of this very active support was naturally an increase in trade with Great Britain due to the substitution of British goods for goods previously purchased in Japan, but while British trade benefited resulting from the adversity of another cannot be considered as satisfactory.

As a result of the hostilities in Shanghai, trade was brought to a standstill and many dealers who placed large orders for British goods during the Autumn of 1931, finding that the Sino-Japanese conflict was not impossible to dispose of the goods, sent agents to importers cancelling their orders regardless of their obligations and the commitments which had been entered into by the importers.

Many More Obligations

Though these notices were sent out by the various dealers associations, it is only fair to state that there are many of the financial stringency which rendered it difficult to meet their obligations locally, but unfortunately there are many others who, owing to the hostilities, were unable to meet their obligations.

Our last annual report referred to the fact that the Japanese Government had made it impossible for the Chinese to meet their obligations.

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The following comparative figures are given by Mr. Maclean of the Customs and Excise Department, show a substantial increase in the value of imports but while in terms of gold, the value of gross imports has been maintained, the importation of manufactured goods registers a decline:

| | 1930 | 1931 |
|----------------------------|-------------|-------------|
| Total Exports | 479,741,710 | 312,667,646 |
| Imports from Great Britain | 84,543,659 | 30,634,641 |
| Imports from Great Britain | 15,249,766 | 64,092 |
| Imports from Great Britain | 11,426,989 | 1,821 |
| Imports from Great Britain | 838,567,598 | 277,476,440 |
| Imports from Great Britain | 93,650,762 | 21,105,184 |
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the Train Ferry from Nanking to Pukow. This ferry when in operation should greatly facilitate the transport of cargo to and from the North and should prove of the greatest value to trade and benefit alike to Nanking-Shanghai and Tientsin-Pukow railways.

"While on the subject of railways it is pertinent to state that the unpaid railway debts which have been outstanding for years, still remain unpaid. Considering that these debts were incurred for materials and rolling stock required for the maintenance of the railways, and should have been a first charge on the revenues of the railways to which they were supplied, it is a standing reproach to the Ministry of Railways that no effort should have been made to meet these obligations.

"It is realized that the Government has many calls on its resources and that the constant drain caused by civil wars may well account for the inability of the Government to pay the debts. There would, however, appear to be no reason why the Ministry of Railways should not prepare a scheme for funding the debts, making provision for payment of interest and amortization from the revenues of the railways which properly managed should be sufficient.

Credit China's Problem

"While the rehabilitation of China's railways and will be provided for in part by loans from indemnity funds, the restoration of China's credit must be a matter for China. As long as these debts remain as they are, a reproach to China's railway administration cannot be anticipated that the financial facilities so much needed by China will be readily forthcoming.

"Though the financial stringency brought about by the Sino-Japanese troubles in Shanghai, did not occur until this year, the stagnation in trade and financial chaos resulting from the limited functioning of the native banks is manifest of the most serious concern to a commercial centre such as Shanghai, and calls for the serious consideration of merchants and bankers who are dependent upon the free flow of cash.

"As the nerve centre of China's finance, any disorganization of the banking system of the port must inevitably have widespread and disastrous reactions particularly in North and Central China.

"Though the native banks are now functioning more normally, the temporary partial suspension during February and March gave a severe shock to the commercial community, and to the confidence that they had hitherto reposed in the native bank orders. It is of course true that native banks which carry the main burden of commerce and trade for the Chinese in Shanghai and the interior, have had to meet a combination of circumstances, viz: the flood in the Yangtze area, the absorption of large amounts of account of the boycott—the value of 'frozen' Japanese cargo in Shanghai alone being estimated at T\$80,000,000—and the natural dislocation and losses brought about by the local hostilities, but at the same time it is felt that some means should be adopted by the native banks which would lead to greater stability at times of crisis and avoid the necessity of adopting such drastic measures as the issue of inconvertible bank orders, which for a time brought all trade to a standstill. The modern style Chinese bankers have between them established a reserve bank for the purpose of meeting such crisis as that through which we have just passed, and it would seem desirable for the guild banks to adopt similar means for providing the necessary stability.

Tariff Not Affected Trade

"The new import tariff which came into effect February 1, 1931 was referred to in the last annual report. Though in some classifications the increases appear unduly heavy, the imposition of the higher tariff has not seriously affected the general import trade.

"The revised export tariff designed to yield an effective 7½ per cent duty on all exports became operative in June. In connection with this your committee endeavored to make arrangements so that bona fide purchases made prior to the promulgation of the new tariff but not shipped until after June might be exempted from payment of the increase in duty, but their efforts were without avail. In connection with export duties it appears to your committee that in view of the adverse trade balance, it would be to the advantage of China were export duties entirely abolished. Such action should result in greatly increased exports and by reducing the adverse trade balance more than compensate for the loss of revenues that would result.

"It has been the policy of the Ministry of Finance, under Mr. T. V. Soong, to reduce the number of national taxes and consolidate such taxation in as few administrations as possible.

Suggests Merging

"The final logical development should be the merging of all tax services into Customs, Salt and Excise, Revenue, and Administrations. Though this consolidation has not yet been completed, progress has been made which if continued should lead to considerable simplification and economy and benefit trade, commerce and industry. Could similar steps be taken with reference to provincial and local taxations which continue to hinder trade and progress, a very substantial improvement should become apparent in the trade balance of the country.

"As Mr. Soong pointed out in his last financial report, there is urgent need of co-ordination of effort and reconstruction, and in this connection it is of interest to record that the past year has witnessed definite efforts towards reconstruction according to pre-arranged plan.

"In reference to the routine work of the chamber, I would like to refer to the very able annual report recently made by Mr. Chang Kin Ngau, managing director of the Bank of China.

"Mr. Chang points out that notwithstanding the material progress made in the world which tends to bind the nations more closely together, people still think in terms of narrow nationalities much as they did a century ago; that this narrow point of view is largely the cause of the world crisis; that there must be a change in our way of thinking.

Cast Off Jealousies

"In summing up, he says, 'We must put aside jealousies; suspicions and self-complacency and abandon the habits of words in favor of action. Then internal conditions will improve, domestic warfare will be avoided and the change in the

thought and action of our people will result in a greater measure of co-operation with other nations. Misunderstanding between China and the other powers will disappear and we shall be able to lift a hand in establishing peace and order in the Far East but throughout the world. I therefore venture to say that there must be a change in our way of thinking.

"The underlying thought of Mr. Chang's remarks is that in view of the international interdependence of the world, to secure the best results for all, there must be whole-hearted co-operation, a working together for the common good.

"We as a chamber are in agreement and sympathy with what Mr. Chang has expressed but in many cases our efforts to assist in developing the trade, commerce and industry of this city and of the country have been hindered by obstructive acts and restrictive laws.

"China has men with culture and ability, who have vision and the power to see through. When, however, we think of the difficult problems, economic, financial and political, both national and international, with which the countries of the West are struggling and then consider the problems that confront this country, with her vast areas, and her enormous heterogeneous population, speaking many dialects, we should be generous and understanding in our helpfulness and considerate and constructive in our criticisms.

The Language School

"Turning now to the internal workings of the chamber. One of the most important departments of the chamber is the Language School. Each year it becomes increasingly evident that a sound knowledge of the Chinese language both written and spoken is necessary for those who expect to maintain and expand their trade in China. In correspondence with Chinese authorities the use of the Chinese language is now usually insisted upon and unless one is willing to place oneself unreservedly in the hands and at the mercy of a Chinese interpreter, a knowledge of the language is essential in order that one may at least check the translations that are made.

"Though at every annual meeting for several years past, employers have been urged to insist upon their juniors studying the Chinese language, I make no apology for once again emphasizing the importance of a sound knowledge of Chinese.

"The school has been established many years and has gained a well deserved reputation for thoroughness. The work done by its principal, Mr. John S. Lee, has been highly commended by the examiners, all of whom are British consular officials.

"Full particulars of the curriculum, the full course extends over four years, can be obtained from the secretary.

Shorthand and Typewriting

Examinations

For many years past commercial examinations have been held in Shanghai by the British Chamber of Commerce acting as local centre of the Education Department of the London Chamber of Commerce. About a year ago, your committee decided that the time was opportune to form its own education department. This was done on February 3, 1931. Its activities were confined to shorthand and typewriting. The first examinations were held in May of last year and the second in November. These examinations are not intended for beginners, and they are open to persons of both sexes and of all nationalities. The goal aimed at is increased efficiency. The examinations are a test not only of the candidates' knowledge of shorthand and typewriting, but of their general intelligence and general knowledge of business phrases. The examinations have attracted a type of candidate determined to equip herself thoroughly for any stenographic-secretarial position. Any candidate who passes the chamber's examinations may be reasonably sure of having qualified for a responsible position and any prospective employer may be reasonably sure of having obtained an employee a little above the average.

"I would urge members, when they are in need of employees whose qualifications are within the scope of our examinations, to make enquiries at the chamber's offices to see if they have passed our examinations. By doing so, they will be protecting themselves and doing a service to those who have been keen enough to sit and pass a difficult but, from the employer's point of view, necessary test.

Chamber's Publications

"A second volume of the treaties concluded by China with the foreign Powers was issued by the Chamber at the end of the year. Two new volumes, Nos. 6 and 7, containing translations of laws and regulations issued by the Nanking Government were also published. Demand for these publications justifies the time spent in compiling them and in their translation.

Arbitrations and Surveys

"The number of arbitrations and surveys conducted by the chamber last year was only 18 as compared with 30 in 1930. On many occasions, however, the aid of the Chamber has been sought by Chinese dealers in clearing up points of difficulty that have arisen between themselves and their suppliers.

Trade Enquiries

"As in past years, the time of the Staff has been fully occupied dealing with trade enquiries. These come from the parts of the world and are invariably answered as fully as possible, whether it be requests for statistics, enquiries in regard to commodities, requests for agencies in Shanghai or offers to act as agents. Such of these enquiries as are considered of interest to members are passed on by means of circular letters. Many valuable connections have been formed in this way.

Employment Department

"The Employment Department continues active. During the year the names of over 172 applicants were entered on the register. I am glad to say that positions

have been found for a large number, though unfortunately, owing to the difficult times through which we have been passing, it has not been too easy to place many of them. I would ask members, when vacancies occur in their office, to bear in mind that the chamber has an employment register. Every care is taken, wherever possible to secure the right person to fill a position.

"The thanks of the chamber are due to J. F. Brennan, our consul-general, who has at all times been willing to give us assistance and advice, and to Mr. H. J. Brett, commercial counsellor of Legation, who has just retired from official life.

"Mr. Brett has been intimately associated with this chamber for the past eleven years, and the Chamber and the British commercial community in Shanghai owe much to his efficient service and sound advice and help, and I want to take this opportunity of expressing our individual and collective appreciation of the work done by him on behalf of British interests in China.

"While regretting Mr. Brett's departure, we welcome Mr. Louis Beale who has just taken up his duties as commercial counsellor. The experience that Mr. Beale brings with him from other parts of the world will undoubtedly prove advantageous to British trade, and we hope that as a result of his efforts trade between Great Britain and China will expand.

"The thanks of the chamber are also due to the members of the sub-committees who have given so generously of their services, and also to the secretary, assistant secretary, and staff for their loyal work and co-operation. This year I particularly wish to mention our assistant secretary, Miss Aytton, who during the absence of the secretary on leave carried on the work most efficiently.

Statement of Accounts

"In spite of the unprecedented increase in expenditure caused through the fall in exchange, and the somewhat abnormal amount spent on telegrams during the year, it is gratifying to note that the working account shows a credit balance of T\$52,91.

"The financial report and statement of accounts for 1931 is in your hands and it is therefore necessary for me to send more fully with them.

"I have now pleasure in moving the adoption of the report and accounts for the year ending December 31, 1931.

Shanghai District Court Officials Submit Reply To Chairman's Statement

Claim Made That Brig.-Gen. Macnaghten Did Not
Fully Understand Power Of Court; Criticism
Not In Agreement With Facts

ANTI-JAPANESE BOYCOTT CASES DEALT WITH ACCORDING TO LAW

Claiming that Brig.-Gen. E. B. Macnaghten, retired Chairman of the Shanghai Municipal Council, did not fully understand the power of the Shanghai District Court when he criticised its functioning, Mr. C. Wan, Registrar of the Court, has submitted a reply to the criticism on behalf of the Court officials. It will be recalled that General Macnaghten scathingly referred to the administration of the Court in his annual speech to ratepayers. The failure of the Court to mete adequate punishment to offenders charged with anti-Japanese activities was held responsible for their intensification in Shanghai and one of the contributory causes of the recent Sino-Japanese hostilities. The Court's reply to these charges follows:

After reading the criticisms of the Shanghai Special District Court, made by Brig.-Gen. Macnaghten, retiring chairman of the Shanghai Municipal Council, in his report before the annual meeting of foreign tax-payers and published in the newspapers on the 14th of this month, one feels that Brig.-Gen. Macnaghten did not fully understand the power of the Court and that the cases he cited in support of his criticisms were not quite in agreement with actual facts. In order to clear up any possible misunderstanding on the part of the foreign community, we offer the following explanation:

In the first place, the question whether the patriotic movement of the people should be prohibited or not comes with the jurisdiction of the executive power with which the court has no right to interfere. We are not aware that there is any law court in any civilized country that can compel the people to buy or refrain from buying goods against their own will. Brig.-Gen. Macnaghten did not, therefore, understand the position of the Court when he said that the court was prejudiced against the anti-Japanese movement. Furthermore, according to the law of this country, cases can be tried only when they are properly brought before the Court. Since the 18th of September last year, only three cases with regard to the anti-Japanese movement have been brought before the Court by the Municipal Council, and they were all dealt with according to law. Individual opinion might, of course, differ as to what evidence should be relied upon and what reasons applied in the particular case, but admittedly the Court had independent discretion in all these matters. If the judgment was thought wrong, the party dissatisfied could have the remedy of appeal. How then, can it be said that the Court was prejudiced, merely because subjectively Brig.-Gen. Macnaghten did not agree with one of its judgments?

Besides these three cases, there were no other cases in connection

with the anti-Japanese movement brought before the Court either by the Municipal Council or by the private individual.

Seizure Of Goods

In Brig.-Gen. Macnaghten's report it was further alleged that Japanese goods to the value of more than \$600,000, and belonging to Chinese, were feloniously seized, a considerable part of which were sold and the proceeds criminally appropriated and that a large number of the so-called traitorous Chinese were illegally arrested and detained in the Temple of Heaven and other places. But the Court was never called upon to decide these matters and we are not in a position to say whether the alleged offences ever happened or not. So far as responsibility is concerned, it should be mentioned that the power of the procurators is by the terms of the Agreement confined to offences provided from article 103 to 186 of the criminal code. That being the case, and assuming the alleged seizure of goods and illegal arrests were true, the responsibility to bring charges did not lie with the procurators.

Now that Brig.-Gen. Macnaghten blamed the Court for having turned a blind eye and deaf ear clearly shows that he did not understand the powers of the Court. The further statement that the attitude of the Court with regard to offences connected with the Japanese boycott and other activities was undoubtedly one of the contributory factors in the accumulative causes which led to actual warfare between the Chinese and Japanese military authorities is nothing but misunderstanding.

In the second place, it should be noticed also, that the number of civil cases received by the Court greatly exceeds that in the former Provisional Court, and the procedure thereof has also become far more complicated. Since President Chau assumed office, great efforts have been made toward improvement of the Court. As to the general dissatisfaction with the Court also mentioned in Mr. Macnaghten's report, no specific facts were alleged and so no more explanation is necessary.

SHANGHAI MUNICIPAL POLICE
COURT REGISTRY

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REALITIES

The criticisms which have been levelled against the speech of the late Chairman of the Shanghai Municipal Council, delivered at the annual meeting of ratepayers on Wednesday, illustrate the failure of our Chinese friends to distinguish between the powers and the duties of the Council. Brigadier-General Macnaghten has been taken to task because, in the course of his review of recent events, he saw fit to lament the failure of the District Courts to dispense even-handed justice while, at the same time, he avoided passing strictures upon Japanese naval and military forces which took action at the end of January and so precipitated the crisis through which we have not yet wholly passed. According to the critics, it would appear as though the Council failed to take action which lay within its power to prevent the Japanese from acting in the way they did, whereas in point of fact the Council possessed no such power and has striven to make that abundantly clear. The Council is not a State—it possesses no army or navy; it administers an area that is dependent for its protection from outside dangers upon a group of international Powers. If, as has happened, one of those Powers, through its failure to secure justice and protection for its nationals from China and the Chinese, sees fit to act on its own in a coercive way, the Council is obviously helpless to interfere. If any interference at all had been considered justified or politic, then, obviously, it had to come from among the other Powers whose Consular and military representatives are entitled to a voice in matters affecting the defence of the Settlement. The Municipal Council is concerned wholly with the preservation of law and order within the Settlement boundaries, with the work of policing, the safeguarding of health, and the provision of municipal amenities. And it strove valiantly through the worrying days of February and March to carry out the whole of its functions. It is not within the scope of the Council's activities to criticize or condemn (or praise) the action which the Japanese authorities saw fit to take. That is a matter for other tribunals. All that the Council could do was to co-operate in the schemes of the Defence Committee and to work for the care and protection of those who resided within the borders of its territory. We think it would be more fitting for Chinese critics to make grateful acknowledgment of the tremendous amount of work and thought which was put into that essential task, than it is to carp about a failure that was no failure at all. Brig.-General Macnaghten has been accused of one-sidedness; it is a foolish charge that rebounds and settles upon those who make it.

With regard to the failure of the District Courts, there is not

the slightest doubt that the want of fair treatment was a direct contributory factor to the intensification of feeling which led to the final clash. There is no need for us to recapitulate all the well-known facts of this aspect of the matter, for they have been generally recognized by all neutral parties here—American, British, French and others. The work of the Municipal Police Force was, in many cases, rendered useless. Theft, illegal imprisonment by unauthorized persons, and extortion all went unpunished because of a parrot-cry of "patriotism" that was used simply as a cloak. We sincerely believe that if the anti-Japanese boycott had been kept confined to a no-buying movement and had not grown into an officially condoned contempt for law and personal property rights (plus unpunished assaults on Japanese residents) there would have been no Shanghai incident. It was not a Municipal function that broke down—it was the functioning of the Courts. And, as a direct consequence, there was intense acerbation of feeling which led first to stern demands by Japan and then to action. When Chinese leaders and writers to-day set out to defend in the name of patriotism all that took place prior to January 28 they betray a woeful inability to recognize past errors and offer a very gloomy prospect for the future.

In speaking of that future, General Macnaghten stated that no Shanghai problem can be permanently solved which does not take into consideration Chinese as well as foreign interests, and with that excellent dictum we heartily agree. But it needs to be pointed out that it is to the interest of all to see established here trustworthy and honest Courts of Justice. In the minds of a good many Chinese it is thought to be "anti-Chinese" to suggest that any change should be made in the status or composition of the District Courts, but that is a narrow and illogical view. It is comparable to suggesting that they are wholly satisfactory, which they notoriously are not. China has decided just recently to send more naval cadets to Great Britain to learn the arts of naval science. There is here no loss of precious "face" or political prestige in not pretending that China has nothing to learn; it would be a logical corollary to admit that Chinese jurists need help and instruction from the West just as much as executive officers of the navy which it is hoped to build up. Co-operation for mutual benefit should be China's aim in administration as well as in any other branch of endeavour, and especially does this apply in and around Shanghai where mutual interests are so intertwined and involved. The suggestion that foreign jurists should assist Chinese is not derogatory to China; it is but a frank recognition of realities. On that plane, and no other, must this problem be considered.

Reg.
J. L. Campbell
M.G.
18-4-32

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GEN. MacNAGHTEN CRITICISED

Special District Court
Explains Position

ALLEGED LACK OF UNDERSTANDING

Alleging that Brigadier-General E. B. Macnaghten showed a lack of understanding of the exact position of the Shanghai Special District Court when he made certain remarks concerning that institution at the annual meeting of ratepayers last Wednesday, the Secretariat of the Court has addressed the following letter to the various Chinese newspapers:—

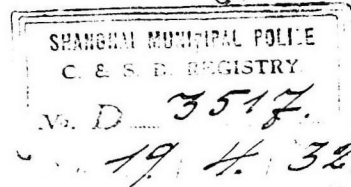
"In connection with the article published in the various vernacular newspapers on April 14 on statements made by Brigadier-General Macnaghten, former Chairman of the Shanghai Municipal Council, criticising this Court at the annual meeting of the foreign ratepayers, we offer the following explanation to avoid public misunderstandings because the former Chairman of the Council does not fully understand the competency of this Court, so what he reported does not coincide with the real facts.

"It must not be forgotten that the question, whether the people's patriotic movement should be banned or not, comes within the jurisdiction of administrative authorities. It is impossible for the Court to exceed its limits. That General Macnaghten should have stated that the Court took issue with the anti-Japanese movement is due to his lack of understanding the Court's exact position. Since September 18, 1931, three cases have been filed in the Court by the Shanghai Municipal Council in connection with the anti-Japanese movement, and they were settled justly in accordance with law.

Procurator's Powers

"In his report, General Macnaghten said that certain property of the Chinese valued at \$600,000 was forcibly stolen, that this property was subsequently sold and the offenders were dealt with arbitrarily and that a number of the so-called Chinese merchant traitors were illegally arrested and detained. The Court is unable to ascertain whether the above report is true or false. The powers of the Procurators of the Shanghai Special District Court are limited according to Articles 103-186 of the criminal Code. Should the statement made by General Macnaghten regarding the above cases of forcible robbery of goods be correct, the Procurators of the Shanghai Special District Court cannot be held responsible for conducting the investigations into these cases.

General Macnaghten has blamed the Court for having ignored and failed to inquire into these cases but this is because he does not fully understand the competency of the Court. The statement made by General Macnaghten accusing the Court of having failed strictly to maintain the law in connection with the anti-Japanese boycott movement and his assertion that the attitude of the Court in this matter was one of the reasons for the recent Sino-Japanese Shanghai imbroglio, are perfectly erroneous. As General Macnaghten did not reveal the real reasons for his dissatisfaction when making his report, this Court is unable to offer any explanation or give a reply."



*Reference made to the
last letter re
same subject in
today's Chinese
re member translation*

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Date 18.4.37

CHINESE & SHANGHAI

From General Macnaghten's strictures on the working of the Special District Courts, the Chinese members of the Council dissociated themselves. This was to be expected. It receives further illumination in the comment made on the retiring Chairman's speech by Chinese journals, as shown in yesterday's issue of the "North-China Daily News." The very circumstances which tended to hamper the Courts in their administration of justice have made it difficult at the present time for Chinese opinion to range itself openly with those who deplore the breakdown. The contention that the judges, in refusing to convict or to punish adequately persons charged with offences arising out of the boycott, were actuated by "patriotic" motives implicitly endorses the Council's complaints. It can however be looked upon in a sympathetic light, when it is realised how vehemently Chinese public opinion reacted to the Manchurian crisis in September last. When a Government is browbeaten to the point of resignation because of its alleged failure to deal properly with that crisis, it is unlikely that the judiciary can preserve the calm detachment demanded of it. So, however glaring may have been the Courts' delinquencies, endorsement of their condemnation cannot be expected from Chinese at this moment, when the catastrophic effects of Japanese action are so fresh in the mind and so apparent to the eye. Yet General Macnaghten would have been failing in his duty if they had not expressed definite views on a matter of such vital importance. This was the more necessary because of the approaching end of the term of three years for which the Court Agreement stands.

Chinese criticism will be understood but it strays sadly from the point when it notes the absence from the retiring Chairman's speech of any specific reference to Japanese action. With the negotiations for the cessation of hostilities still in progress such reference might have been embarrassing and liable to misconstruction. Nor would it have been fair to the incoming Council to have attempted to sum up a case which it will eventually have to handle in the light of discussions elsewhere. General Macnaghten's appreciative tribute to the success of the Japanese and Chinese members in preserving their cooperative functions on

the Council throughout the crisis gained strength from reticence and wisely deferred the delivery of any verdict on episodes in which the Council was only one of several protagonists. Concerned as he was with the future of the Settlement, his acquittal of a failure to appreciate the Chinese point of view rests firmly on that tribute and on his plain enunciation of the need for taking that point of view into account when considering that future.

Chinese criticism, then, understandable up to a point, should not be looked upon as either negligible or final in its present form. It would be idle to expect a sudden reconciliation of

Chinese and foreign views. When the mists surrounding Loyang are so dense, when the actual effects of recent events on Chinese policy are so hard to analyse, impetuous desires to test reconciliatory action have to be curbed. Once again, it may be urged, the blessed influence of a common effort in restoring normality must be allowed to have precedence, to develop its strength and, so, to pave the way for a calmer and more dispassionate discussion than is possible at the present time. On the Chinese side there will have to be, eventually, a clearer recognition of the fact that Shanghai's plight has been to foreigners as well as Chinese, a disaster of the first magnitude. Recovery from it imposes on every community an effort which should command the most unreserved spirit of cooperation. Foreigners will—many of them already have—come to appreciate the significance of the recent shattering of long-established convictions. Shanghai still remains however the essential pivot of China's economic and political progress. To safeguard that position must be the care of Chinese as much as foreigners. It is satisfactory therefore to observe that the same representatives who sat on the last Council have been re-elected by the Chinese organisations. Those representatives have shown their responsiveness to the opinions of their countrymen as well as their jealous regard for the integrity of Shanghai. They, no less than their colleagues, have a great opportunity for displaying their gifts of political foresight. They have the additional privilege of being able thereby, to make a substantial contribution to the solution of the intricate and infinitely more difficult problems of China as a whole.

3597

SPECIAL DISTRICT COURT

Chinese Answers Criticism by Retiring Chairman

CAUSES OF LOCAL TROUBLE

The "Shunpao," a leading Chinese newspaper, published yesterday a lengthy editorial comment regarding the criticisms of the Shanghai Special Area District Court made by Brig.-Gen. E. B. Macnaghten, the retiring chairman of the Shanghai Municipal Council, in his speech at the annual Foreign Ratepayers Meeting on Wednesday afternoon. A translation of the editorial follows:—

"After studying Brig.-Gen. Macnaghten's speech in detail, we feel and are convinced that his expressions are biased and that he has failed to recognise the fundamental nature of the local disaster. We feel that his opinions warrant some comment and now we are setting forth our arguments based on facts and reasons.

"Brig.-Gen. Macnaghten stated in his speech that the prejudiced actions of the Special Area District Court in anti-Japanese cases was one of the contributing factors in the cumulative causes which led to the actual warfare between the Chinese and Japanese military forces. If this statement had been given out by the Japanese, we would consider that they had been compelled to do it. But when it was Brig.-Gen. Macnaghten who made this statement, we cannot help but be puzzled.

"How did the anti-Japanese boycott movement start? Are there not any cumulative causes which forced us to launch this movement? If Brig.-Gen. Macnaghten does not consider the Japanese military activities as reasonable, he ought to realise the stimulus given to the feelings of the Chinese people as a result of the disaster in Manchuria last September as the cause of the anti-Japanese movement. The anti-Japanese movement, let it be known, has been carried out in a most peaceful manner through boycott of Japanese goods. No violence had been resorted to nor had the peace and order of the International Settlement been infringed upon. The security of the nationals of the friendly nations had never been endangered.

Boycott in America

"We declare that there was no ground for any interference with the patriotic movement thus carried out. Recently, an anti-Japanese boycott movement was started in the United States and we wonder what Brig.-Gen. Macnaghten would think about that.

"In connection with the local trouble, China has been making concession after concession, although realising that Japan was determined to precipitate the trouble. Despite her concessions, the desire to carry out wholesale murder on the part of the Japanese could not be checked and the manifestation of that desire caused a most tragic disaster.

"The present disaster to Japan is military encroachment while to China it is nothing other than self-defence. Peoples far away in Europe and America have expressed their sympathy with China. Yet Brig.-Gen. Macnaghten, an eye-witness of the trouble, has stood at the side of 'might is right.' Is it because of his biased thinking? Or is it because that Brig.-Gen. Macnaghten considers it right to conquer a country with military forces, to tear down international pacts and treaties, to break the peaceful state of the world and to overlook the international justice? That is what is puzzling us.

Provisional Court Agreement

"As to the Special District Court, this institution was reorganised from the Shanghai Provisional Court. The Provisional Court was an experiment provided by agreement signed by the Chinese Government and those interested Powers. Had this experiment failed to satisfy the interested nations, it would never have been reorganised into the present special district court. It also should be pointed out that the establishment of this court was also for the purpose of maintaining the sovereign integrity of the Chinese Government. Brig.-Gen. Macnaghten had no grounds to criticise the court for, if there is any evidence to show prejudiced action of the court in anti-Japanese cases, it is reasonable to assume that these actions were taken from patriotic motives.

"The establishment of the Special District Court was achieved by virtue of an agreement between the Chinese Government and the interested nations and we are of the opinion that Brig.-Gen. Macnaghten would not be permitted to act against an agreement so signed. Because of this belief, we feel that Brig.-Gen. Macnaghten has no chance of shaking the constitution of the Special District Court. This, we hope, the retiring chairman of the Council will note with care.

"Free City" Movement

"When we read Brig.-Gen. Macnaghten's speech carefully, we see that his goal is not a question pertaining to the Sino-Japanese hostilities, nor the Special District Court, but really the so-called 'Shanghai Question.' Recently, there have been cries for the establishment of a 'Greater Shanghai' or a 'Free City of Shanghai.' We wonder if Brig.-Gen. Macnaghten's stand for an international court is not the 'vanguard' of a 'free city' movement.

"If Brig.-Gen. Macnaghten's aim is really centering on this plan, we cannot but help considering his views as wrong. It must be made clear that not only this plan would be injuring the integrity of Chinese sovereignty, but it also must be realised that the Chinese people have awakened from their long nap and are now in their struggle for liberty and equality."

Not

3600

General Rapped By Chinese Press For Criticism Of Court

Retiring S.M.C. Chairman's Speech At Meeting Of Ratepayers Yesterday Target Of Attack In Bitter Editorial Today

Holding that the criticism of the Special District Court, made by Brigadier General E. B. Macnaghten, retiring chairman of the Shanghai Municipal Council, in his speech before Settlement ratepayers at the Carlton Theater yesterday afternoon were groundless, the Shun Pao, one of the leading vernacular dailies of the city, this morning made a target of the general's remarks, in a lengthy editorial under the title of "Attention to Brigadier General Macnaghten's Speech at the Foreign Ratepayers' Meeting." A liberal translation of the editorial follows:

"Brigadier-General E. B. Macnaghten, in his capacity as the retiring chairman of the Shanghai Municipal Council, made a lengthy report to the annual meeting of the foreign ratepayers yesterday in which he stated that the prejudiced rulings of the Special District Court in anti-Japanese cases was 'one of the contributing factors in the cumulative causes which led to actual warfare between the Chinese and Japanese military forces.' In conclusion, Brigadier-General Macnaghten also made a definite suggestion for the establishment of an international court.

Bias Charged

"After studying Brigadier-General Macnaghten's speech in detail, we feel and are convinced that his expressions are biased and that he has failed to recognize the fundamental nature of the local disaster. We feel that his opinions warrant some comment and now we are setting forth our argumentation based on facts and reasons.

"Brigadier-General Macnaghten stated that the prejudiced actions of the Special District Court in anti-Japanese cases was one of the contributing factors in the cumulative causes which led to actual warfare between the Chinese and Japanese military forces. If this statement had been given out by Japanese, we would consider that he had been compelled to do it. But when it was Brigadier-General Macnaghten who made this statement, we cannot help but be puzzled.

Boycott Recalled

"How did the anti-Japanese boycott movement start? Are there not any cumulative causes which precipitated us to launch this movement? If Brigadier-General Macnaghten does not consider the Japanese activities as reasonable, he ought to realize the stimulus given to the feelings of the Chinese people as result of the disaster last September in Manchuria as the cause of the anti-Japanese movement. The anti-Japanese move-

ment, let it be known, has been carried out in a most peaceful manner through boycott of Japanese goods. No violence had been resorted to and nor had the peace and order of the International Settlement been infringed upon. The security of the nationals of the friendly nations had never been endangered.

"We declare that there was no ground for any interference with the patriotic movement thus carried out. Recently an anti-Japanese boycott movement was started in the United States and we wonder what Brigadier-General Macnaghten would think about this action.

"Wholesale Murder"

"In connection with the local trouble, China has been making concession after concession, although realizing that the Japanese had determined to precipitate and provoke the trouble. Despite her concessions, the desire to carry out wholesale murder on the part of the Japanese could not be checked, and the manifestation of that desire caused a most tragic disaster.

"This present disaster to Japan is military encroachment while to China it is nothing other than self-defense. Peoples far away in Europe and America have expressed sympathy towards our country. Yet Brigadier-General Macnaghten, an eye-witness of the trouble, has stood at the side of 'might is right.' Is it because of his biased thinking? Or is it because that Brigadier-General considers it right to conquer a country with military force, to tear down international pacts and treaties, to break the peaceful state of the world and to overlook international justice? That is what is puzzling us.

"Might Is Right"

"We, however, concur with Brigadier-General Macnaghten in his opinion that the present trouble exposed the weakness of the International Settlement. But these weaknesses, from our view, constitute the failure of the authorities to check the outbreak of the trouble

before it started and their defense area thereby quickening the outbreak of the trouble. When the warfare started, the Council also allowed the Japanese troops to pass through the International Settlement, using it as a base for military operations. It failed to uphold the neutrality of the International Settlement.

For these reasons, we feel disgusted and sorry because we feel that the Council has bowed to the coming of night.

"As to the Special District Court, this institution was reorganized from the Shanghai Provisional Court. The Provisional Court was an experiment provided by agreement signed by the Chinese Government and those of the interested nations. Had this experiment failed to satisfy the interested nations, it would never have been reorganized into the special district court of today. It also should be pointed out that the establishment of this court was also for the purpose of maintaining the sovereign integrity of the Chinese Government. Brigadier General Macnaghten had no grounds to criticize the court for if there is evidence to show prejudiced action in anti-Japanese cases it is reasonable to assume that these actions were taken from patriotic motives.

"The establishment of the Special District Court was achieved by virtue of an agreement between the Chinese Government and the interested nations and we are of the opinion that Brigadier General Macnaghten would not be permitted to act against agreement so signed. Because of this belief, we feel that Brigadier General Macnaghten has no chance of shaking the constitution of the Special District Court. Thus, we hope, the general note with care.

"Free City" Viewed

"When we read Brigadier General Macnaghten's speech carefully, we see that his goal is not a question pertaining to Sino-Japanese hostilities, nor the Special District Court, but really the so-called 'Shanghai Question.' Recently there have been cries for the establishment of a 'Greater Shanghai' or a 'Free City of Shanghai.' We wonder if Brigadier General Macnaghten's stand for an international court is not the 'vanguard' of a 'Free City' movement.

"If Brigadier General Macnaghten's aim is really centering on this plan, we cannot but help considering his views as wrong. It must be made clear that not only this plan for a nation in a nation would be injuring the integrity of Chinese sovereignty but it also must be realized that the Chinese race has awakened from its long nap sufficiently to realize that necessity of a war for liberty and equality. Such a plan never would be tolerated. If Brigadier General Macnaghten is viewing the Chinese as he did 30 years ago, we are compelled to feel that progress in his mind has been very slow, recording nothing of an improvement in a period of 30 years."

Few Japanese Out

The absence of Japanese ratepayers was conspicuous at the Ratepayer meeting yesterday and the lack of public interest was shown by the absence of visitors in the gallery. This is in contrast

to meetings of other years when the gallery was crowded, particularly when matters concerning the purchase of the Majestic Hotel site for a civic center or the admission of newspaper representatives to Council Meetings was discussed.

At the annual meeting yesterday the report and accounts for the past year and the Budget for 1932 were passed without discussion. The election of two Chinese to membership of the Land Commission was proposed in the form of a resolution by the Chairman. Opposition was made by Mr. E. F. Harris to the proposal who submitted an amendment which Mr. A. W. Burkill, the chairman, was at first inclined to reject on technical grounds.

Three Distinct Interests

Winning his point, Mr. Harris addressed the meeting. He stated that his main objection to the resolution was the admission of two instead of one Chinese member to the Commission. He maintained that the Land Commission is essentially a tribunal or arbitration board representing three distinct interests, the landowners, the Council and the ratepayers.

Mr. Harris contended that in a commission of three these interests were equally and properly represented. If two more members were added, a proper and equal representation of the necessary interests involved would be impossible, he said, suggesting the appointment of only one Chinese Commissioner.

Wider Cooperation

Supporting the Council's resolution, Mr. Norman Lewis said that it had been the avowed principle of the Shanghai Municipal Council to extend wider facilities to the Chinese for cooperation with the Council. The admission of two Chinese members of the community to the Land Commission was held as a step in the right direction.

The amendment lost by a small majority when it was voted upon. Withdrawal of the candidature of Mr. J. W. T. Brooke from the contest for ratepayers' representative on the Land Commission left the field to Messrs. H. S. Peek and H. G. Robinson as candidates.

Addressing the meeting before a vote was called, Mr. Peek explained his reasons for seeking the post. He said that thereby a ratepayer would be elected who had definite interests in land in the city and had, on one occasion, acted as the property owners' representative on the Commission. Mr. Robinson did not address the meeting. Cf. a show of hands Mr. Peek was elected.